

1 A. Right. The abstracts were to help me
2 remember what I had been viewing over the few years,
3 as far as I was concerned.

4 Q. Now, in your viewing of Channel 45, you
5 have noticed, have you not, that a number of the
6 program hosts are black?

7 A. Uh-huh.

8 Q. And that a number of the participants in
9 programs are black?

10 A. Uh-huh.

11 Q. You do not find it an all white screen when
12 Channel 45 is on, do you?

13 A. No, not typically.

14 Q. Would you look at a network program still
15 on Page 2 of Exhibit 3, another synopsis, this one
16 for a program on June 27, 1988 and I'll ask you if
17 that synopsis does not indicate to you that it was
18 indeed a programming where the person with AIDS
19 regards himself and describes himself as a Christian.

20 A. It does say that here, uh-huh.

21 Q. Sir?

22 A. It does say that here.

23 Q. Would you look at Page 8 of Trinity Exhibit
24 3, the program on December 11, 1987?

25 A. What page is that again?

1 Q. Page 8. There is a reference to Christians
2 and the context of AIDS. Isn't it fair to say that
3 that synopsis indicates that the approach should not
4 be judgmental and that consciousness raising among
5 Christians is necessary?

6 A. It does say it should not be judgmental. I
7 don't know judgmental about what, but it also
8 mentions inter-faith clergy on AIDS strongly
9 advocates consciousness raising.

10 I don't know if they're saying here they
11 should not be judgmental that the person isn't
12 Christian, because that's not the impression that
13 they give you when you watch it.

14 I don't know if they're talking about
15 consciousness raising in terms of AIDS education is
16 the kind of consciousness raising I refer to in terms
17 of prevention. I tend to -- From watch their
18 programming, I believe they mean conscious raising
19 about becoming more Christian.

20 Q. But you find nothing in that program
21 description, at least, to support the conclusion that
22 there is a message that Christians don't get AIDS?

23 A. Right. And if all I ever saw was these, I
24 might have a hard time with my, you know, statement,
25 justifying my statement. But the problem is that

1 I've watched the programming and the programming is
2 not fairly encapsulated in these synopses.

3 Q. Would you look at Page 10, a network
4 program, the second one on that page on September 28,
5 1987.

6 I would ask you if that does not indicate
7 to you that on that program there was a discussion of
8 condom use and that if we accept the synopsis, three
9 of the four participants advocated safe sexual
10 practices using condoms and that the fourth stated
11 that Christians have no choice other than abstinence
12 and that the humanistic view of safe sex is not open
13 to Christians, is that a fair summary of what appears
14 there?

15 A. I'm going to have to take a moment to read.

16 Q. Would you?

17 A. This is interesting because -- Let me see,
18 now could you ask me that question again?

19 Q. I would ask you if that does not suggest to
20 you of the four participants in that program, three
21 advocated the use of condoms?

22 A. Who is Callahan?

23 Q. Sir?

24 A. Who is Callahan? Oh, he was -- Again, see
25 this, is the problem you have - my problem I have

1 with this programming. You have three people on
2 there, one was a gynecologist, one was a registered
3 nurse and a counselor and the other was a marketing
4 and distributor of condoms.

5 Well, now, those folks represent certain
6 constituencies, professional, sales, and then you
7 have a reverend and the reverend is the one who is
8 being supported in this program as having the answer
9 to the problem which is the Christians have no other
10 and so if you're not a good Christian, then you would
11 get AIDS.

12 Q. That's your conclusion, isn't it?

13 A. If you watch the programming, that's what
14 public programming is about. It's not about a
15 synopsis. It's about the impression that they leave
16 the public with.

17 Q. And isn't it a fact that all we know about
18 this program indicated to us that the use of condoms
19 was advocated on the program as a point of view and
20 that also a contrary point of view was expressed,
21 that we had two contradictory points of view
22 expressed in the same program?

23 A. One point of view was by "Christians".
24 Another was by "professionals" or in some people's
25 minds anit-Christian.

1 Q. And wouldn't you suggest that that
2 indicated a clash of views presented on the same
3 program?

4 A. And it also indicates the way they present
5 it and from Channel 45 that the anti-Christian view
6 is not the correct view. It's more of a - what do
7 they call those things - info-commercial than it is a
8 public information program.

9 Q. On the program that you appeared, there was
10 no effort made, was there, to silence you or to keep
11 you from expressing whatever it was you wanted to
12 express?

13 A. No, there was not. Although I still wonder
14 what happened to a couple of the statements.

15 Q. Couple of the what?

16 A. Couple of the statements that I made. May
17 have been bad recollection, but I wonder about a
18 couple of them.

19 Q. Doctor, from your own point of view, is it
20 fair to say that what you object to in the
21 programming is that it comes back to stating that the
22 Christian approach is the proper approach and that
23 you object to that?

24 A. I object to the lack of balance.

25 Q. You object to the lack of balance?

1 Was there a lack of balance in the program
2 description you had just seen with respect to condom
3 use?

4 A. I don't know. I didn't watch the program.
5 You know, I vaguely -- I may have watched that
6 program, but I really can't recall it enough to talk
7 to you about the program.

8 Q. Did you feel having seen the film clip of
9 the program which you appear that there was a lack of
10 balance?

11 A. There would have been a major lack of
12 balance and a major lack of information if I hadn't
13 been on the program and hadn't been forceful.

14 Q. And you provided balance?

15 A. I tried to. I tried to. I don't really
16 have to try so hard on other programs that I've been
17 on.

18 MR. MULLIN: I have no further questions.

19 Thank you.

20 REDIRECT EXAMINATION

21 BY MS. ROBINSON:

22 Q. Mr. Cherry, regarding your Declaration and
23 the original Declaration you submitted to counsel,
24 beside the type face, were there any other
25 differences that you can recall?

1 A. When I checked it against my computer file,
2 it was the same as far as I could tell.

3 MS. ROBINSON: No further questions.

4 MR. MULLIN: Thank you.

5 (Whereupon, the deposition was concluded at
6 or about 11:15 a.m.)

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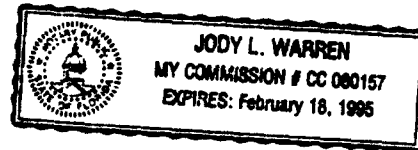
AND FURTHER DEPONENT SAITH NOT

ANDREW CHERRY

SWORN TO AND SUBSCRIBED TO before me on this
day of , 1993, in the City of
Fort Lauderdale, Broward County, Florida.

Notary Public - State of Fl

1 CERTIFICATE OF OATH

2 STATE OF FLORIDA)
3 COUNTY OF BROWARD)4 I, the undersigned authority, certify that
5 ANDREW CHERRY personally appeared before me and
6 was duly sworn.7 WITNESS my hand and official seal this
8 5th day of October, 1993.9
10 
JODY L. WARREN11 Notary Public - State of Florida
12 My Commission Expires: 2/18/95

CERTIFICATE

STATE OF FLORIDA:

SS.

COUNTY OF BROWARD:

I, JODY L. WARREN, being a Shorthand Reporter and a Notary Public for the State of Florida at Large, do hereby certify that I was authorized to and did stenographically report the foregoing deposition; and that said transcript is a true record of the testimony given by the witness.

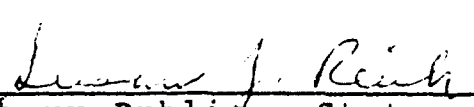
I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

Dated this 5th day of October, 1993.


JODY L. WARREN

STATE OF FLORIDA)
COUNTY OF BROWARD)

The foregoing certificate was acknowledged before me this 5th day of October, 1993, by Jody L. Warren, who is personally known to me.


Notary Public - State of Florida

SALAD #3

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Applications of

MM Docket No. 93-75

TRINITY BROADCASTING OF FLORIDA,
INC.

BRCT-911001LY

For Renewal of License for
Television Station WHFT (TV)
Miami, Florida

GLENDALE BROADCASTING COMPANY

BPCT-911227KE

633 South Federal Highway
Fort Lauderdale, Florida
September 13, 1993
Monday, 11:30 a.m.

DEPOSITION OF CHARLES CHERRY

Taken before Jody L. Warren, Shorthand
Reporter, Notary Public for the State of Florida at
Large, pursuant to Notice of Taking Deposition filed
in the above cause.

COPY

Federal Communications Commission	
Docket No. <u>93-75</u>	Exhibit No. <u>503</u>
Presented by <u>Attorney</u>	
Disposition	Identified <u>DEC 3 1993</u>
	Received
	Reentered <u>DEC 3-1993</u>
Reported	
Date	<u>DEC 3-1993</u>

1 APPEARANCES:

2
3 MULLIN, RHYNE, EMMONS & TOPEL
4 By: EUGENE F. MULLIN, ESQUIRE
on behalf of Trinity.

5 RONDA R. ROBINSON, ESQUIRE
6 on behalf of SALAD.
7
8

9
10 I N D E X

11 <u>Witness</u>	12 <u>Direct</u>	13 <u>Cross</u>
14 CHARLES CHERRY	15 3	16 4
	17 29	

18 EXHIBITS

19 SALAD Exhibit 2	20 3
21 Trinity Exhibits 6-8	22 3

1 Thereupon:

2 CHARLES CHERRY

3 was called as a witness and, having been first
4 duly sworn, was examined and testified as follows:

5 MR. MULLIN: I'm going to call the notice
6 6, the subpoena attached to which is the
7 statement 7 and Illustrative Programming on
8 CHannel 45 on Crime 8.

9 (Thereupon, the above-referred to documents
10 were marked as Trinity Exhibit 6 through 8 for
11 identification by the court reporter.)

12 DIRECT EXAMINATION

13 BY MS. ROBINSON:

14 Q. Could you state your name, sir?

15 A. Charles W. Cherry, the II.

16 Q. And your address?

17 A. 121 Northwest 6th Avenue, Fort Lauderdale,
18 Florida, 33311.

19 Q. I'm placing before you a two page document,
20 could you identify the document?

21 A. Yes, ma'am. This is a copy of my resume.

22 MS. ROBINSON: I'd like to have this
23 document marked as SALAD Exhibit Number 2.

24 (Thereupon, the above-referred to document
25 was marked as SALAD Exhibit 2 for

1 identification by the court reporter.)

2 MS. ROBINSON: Your witness, counselor.

3 CROSS EXAMINATION

4 BY MR. MULLIN:

5 Q. Mr. Cherry, who first contacted you with
6 respect to testifying as a witness for SALAD in this
7 proceeding?

8 A. David Honig's assistant, Tyrone - I forgot
9 his last name.

10 Q. Was that a Mr. Tyrone Shanks?

11 A. Correct.

12 Q. He called you on the telephone?

13 A. Yes.

14 Q. Did he tell you how he got your name?

15 A. No.

16 Q. Did he tell you what he wanted from you?

17 A. He explained that there was litigation with
18 regard to a license challenge and would I be
19 interested in getting involved as a community based
20 individual.

21 Q. And you told him you would be?

22 A. Correct.

23 Q. At that time had you heard of SALAD?

24 A. Oh, yeah.

25 Q. Are you a member of SALAD?

1 A. No.

2 Q. Did he send to you a document in the form
3 of a letter addressed to Colleagues and Friends that
4 I'm showing you what's been marked as Trinity Exhibit
5 5?

6 A. Yes, sir.

7 Q. And did you receive from him subsequently a
8 document that constitutes your Declaration in this
9 proceeding, a draft?

10 A. I received it after I discussed it with
11 him.

12 Q. Tell me the process by which that document
13 was prepared. I mean, was there an interview and
14 then he drafted something and then did you draft
15 something? Who drafted what?

16 A. He made the initial draft based on
17 conversations with me and submitted that draft to me
18 for my approval.

19 Q. And he sent it to you?

20 A. Correct.

21 Q. Did you make any changes in what he sent
22 you?

23 A. Yes.

24 Q. Do you have a copy of the original draft
25 that he sent you?

1 A. No.

2 Q. I'm going to show you what's been marked
3 for identification as Exhibit 7 which is a subpoena
4 attached to which, but not properly attached, is a
5 Declaration of Charles Cherry and now properly
6 attached is the Declaration of Charles Cherry,
7 Exhibit Number 7, a mistake was made during the
8 xeroxing.

9 Mr. Cherry, I was directing your attention
10 to Exhibit 7, the subpoena, calling your attention to
11 the Declaration attached to it, you received that in
12 typed form from Mr. Honig or his office, is that
13 correct?

14 A. Yes.

15 Q. And what you received was a revision or was
16 it the first draft?

17 A. This was the second draft.

18 Q. And you do not now know where the first
19 draft is?

20 A. No.

21 Q. You signed it and sent it back to
22 Mr. Honig's office?

23 A. Correct.

24 Q. In your conversations with Mr. Honig or his
25 colleague, were you asked how much viewing you had

1 done of Channel 45?

2 A. To the best of my recollection, yes.

3 Q. And your answer to him was what?

4 A. I told him anywhere from - from about a
5 half an hour to an hour up until probably January of
6 this year.

7 Q. Probably until January of this year?

8 A. Yes.

9 Q. You're not suggesting that you spent an
10 hour or half hour a week or month, you mean an hour
11 or half hour all together?

12 A. No, I mean a week.

13 Q. You mean an hour or half hour?

14 A. Half hour to an hour a week.

15 Q. Viewing Channel 45?

16 A. Right.

17 Q. Any particular program that you viewed?

18 A. I used to look at Shambach (phonetic), the
19 Shambach program.

20 Q. Is that a children's program?

21 A. It's an Evangelist out of Tyler, Texas,
22 Robert W. Shambach.

23 Q. Anything else?

24 A. Jan and Paul Crouch's show and just sort of
25 flip around and see who they had on. If they had

1 somebody of interest, I would stop.

2 Q. Any local program that is produced at
3 Channel 45 that you watch?

4 A. No.

5 Q. Let's first have me show you your notice of
6 deposition which is Exhibit 6, did you receive that?

7 A. Yes, I did.

8 Q. And you received that from whom?

9 A. From David Honig.

10 Q. I show you Exhibit Number 7, which I think
11 you already have in front of you, the subpoena. This
12 time directing your attention to the page headed
13 Exhibit A, the first paragraphs numbered one, two,
14 three requesting certain documents, did you review
15 those paragraphs and then in turn review to see if
16 you had any documents responsive?

17 A. Yes.

18 Q. Do have any documents responsive?

19 A. No.

20 Q. You have no notes of any kind that you've
21 made that fall within the scope of one, two or three?

22 A. No.

23 Q. You indicate in your statement that you had
24 reviewed the Trinity program synopsis or
25 Issues/Program Lists on the subject of AIDS. I show

1 you what has been marked here as Trinity Number 3.

2 Is that what you reviewed?

3 A. Yes, sir.

4 Q. In your Declaration in the Paragraph Number
5 2, about two-thirds of the way down, there is the
6 statement that Channel 45 Issues/Programs Lists
7 listed only one program in four years that have
8 representatives from Broward or Dade County
9 discussing the effects of AIDS in our communities.

10 I would ask you, sir, is that the program
11 that appears on Page 2 of Exhibit 3 as a program
12 broadcast on May 13, 1988?

13 A. If I can --

14 Q. Is that what you had made reference to?

15 A. Could you repeat the question, please?

16 Q. I'm referring to your statement that the
17 Issues/Programs Lists listed only one program in four
18 years that have representatives from Broward or Dade
19 County discussing the effect of AIDS in our
20 communities.

21 Is the one program to which you refer the
22 one that has been identified as being broadcast on
23 May 13, 1988 which is summarized on Page 2 of Trinity
24 Exhibit Number 3 or do you recall?

25 A. At this point, I don't recall.

1 Q. All right. Let's try it this way then.
2 Direct your attention to Trinity Exhibit 3, Page 2,
3 the first full paragraph, a program broadcast on May
4 13, 1988, and I would ask you if that program is one
5 on which representatives of Broward or Dade discuss
6 the effects of AIDS?

7 A. Yes, it is but when I refer to our
8 community in my Declaration, I'm specifically talking
9 about the black community.

10 Q. And you don't know whether that particular
11 program made any reference specifically to the black
12 community or not, do you?

13 A. No, not on the face of it.

14 Q. Do you know whether either of the hosts on
15 that program was a black person?

16 A. No, I don't know.

17 Q. Do you know whether the guests on that
18 program, Diane Scalise was a black person?

19 A. No. But assuming they were black or
20 whether they were black or white, they don't indicate
21 that they dealt with the issue as it relates to the
22 black community and that was what I was looking for.

23 Q. You would agree, however, would you not,
24 that it is of interest to the black community as part
25 of the larger community to have information about the

1 history of the disease and how it can be contracted?

2 A. Yes. But there are specific kinds of
3 cultural differences and cultural considerations that
4 should be taken into account in giving out the
5 information.

6 Q. And your observation is that you see no
7 indication that those specific differences were taken
8 into account, is that it?

9 A. Correct.

10 Q. Would you look at Page 8 of Exhibit Number
11 3, the program on December 11, 1987. I would ask you
12 if that's a program where AIDS was discussed by a
13 person from Dade County?

14 A. Seemingly, I can't really tell. It
15 indicates that the host introduced Reverend Donald
16 Olson.

17 Q. Do you know the Reverend Don Olson?

18 A. No, I don't.

19 Q. Do you know whether he is a black person or
20 white person?

21 A. No. And I don't know whether he's a
22 resident of Broward or Dade.

23 Q. But he's identified here, is he not, as the
24 chairperson of the Miami organization?

25 A. Correct.

1 Q. Do you know whether Michael Utterback or
2 Regina Utterback is a black person?

3 A. No, I don't.

4 Q. Would you look at Page 10, the program
5 listed as having been broadcast on July 31, 1987, the
6 first paragraph, you recognize that that program made
7 some specific reference to Dade County and
8 specifically to prostitutes in Dade County?

9 A. Go ahead.

10 Q. Do you know whether Thom Rogers mentioned
11 there is a black person or a white person?

12 A. No.

13 Q. Is it fair to say, Mr. Cherry, that the
14 criticism or the observations that you have made in
15 Paragraph 2 are not criticisms of what was broadcast,
16 but criticisms of a station's failure to cover other
17 issues and specifically issues specifically relating
18 to the black community?

19 A. I think that's a correct characterization.

20 Q. Sir?

21 A. Yes, I would think that that was a correct
22 characterization.

23 Q. In the viewing you have done of Channel 45,
24 have you observed program hosts who are African
25 American as well as program hosts who are white?

1 A. Very few.

2 Q. Have you ever seen a program hosted by a
3 name Ray, Harold Ray, R-a-y?

4 A. I don't recall.

5 Q. Have you ever seen a program hosted by a
6 man named Isaiah Williams?

7 A. Don't recall that either.

8 Q. Would you look at what we marked for
9 identification as Trinity Exhibit 8. Did you review
10 Trinity Exhibit 8 before signing your statement, that
11 is your Declaration?

12 A. Yes.

13 Q. Can you point to me any portion of Exhibit
14 8 which supports your statement that Channel 45
15 continues to provide programs which tarnish the
16 already blemished image of African American males?

17 A. Okay.

18 Q. Do you have the portion in mind?

19 A. Yes.

20 Q. Go ahead. Could you give it to us by page?

21 A. Yes, as soon as I find them.

22 Looking at Page 6.

23 Q. Page what?

24 A. Page 6, the 700 Club, Charles Lee tells Pat
25 Robinson and Sheila Walsh about his experiences as a